

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

AT BECKLEY

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 5:11-00038

HUGHIE ELBERT STOVER

UNITED STATES' MOTION TO INCREASE PAGE LIMIT

Comes now the United States of America by R. Booth Goodwin II, United States Attorney, and Philip H. Wright, Assistant United States Attorney for the Southern District of West Virginia, and moves to increase the page limit for the parties' sentencing memoranda to ten pages. This is an extraordinary case, and the United States intends to seek a sentence substantially above the advisory Sentencing Guidelines range of 33 to 41 months' imprisonment. That position rests on several reasons and requires more than five pages to explain. Among those reasons are the following:

1. Several of the sentencing factors enumerated in 18 U.S.C. § 3553(a) can be satisfied only with a sentence substantially above the advisory Guidelines range.

2. The circumstances of this case fall far outside the heartland of the advisory Guidelines and warrant an above-

Guidelines sentence. A number of cases support this view and require explanation.

3. Defendant's relevant, uncharged conduct includes his role in a conspiracy to provide routine advance warning of Mine Safety and Health Administration (MSHA) inspections at the Upper Big Branch mine (UBB). MSHA has found that the practice of providing such warnings was a contributing cause of the 2010 explosion at UBB that killed 29 coal miners.

4. The investigations that defendant obstructed through his offense conduct were exceptionally important to the families of the miners killed at UBB, to the future safety of all miners, and to the nation as a whole. The advisory Guidelines for obstruction of justice and making false statements do not fully account for the significance of the investigations that defendant affected.

Respectfully submitted,  
R. BOOTH GOODWIN II  
United States Attorney

s/PHILIP H. WRIGHT  
PHILIP H. WRIGHT  
WV Bar Number: 7106  
Assistant United States Attorney  
United States Attorney's Office  
300 Virginia St., E., Suite 4000  
Charleston, West Virginia 25301  
Telephone: (304) 345-2200  
Fax: (304) 347-5104  
Email: [philip.wright@usdoj.gov](mailto:philip.wright@usdoj.gov)

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing "UNITED STATES' MOTION TO INCREASE PAGE LIMIT," has been electronically filed and service has been made on opposing counsel by virtue of such electronic filing on this 8th day of February, 2012, to:

William David Wilmoth, Esquire  
Steptoe & Johnson PLLC  
1233 Main Street, Suite 3000  
Wheeling, WV 26003-0751

s/PHILIP H. WRIGHT

PHILIP H. WRIGHT

WV Bar Number: 7106

Assistant United States Attorney

United States Attorney's Office

300 Virginia St., E., Suite 4000

Charleston, West Virginia 25301

Telephone: (304) 345-2200

Fax: (304) 347-5104

Email: [philip.wright@usdoj.gov](mailto:philip.wright@usdoj.gov)